

CHESHIRE EAST COUNCIL

Licensing Committee

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| Date of Meeting: | 6 th March 2017 |
| Report of: | Miss Jennifer Knight – Senior Licensing Officer |
| Subject/Title: | Review of Taxi Licensing fees and charges for the financial year 2017/2018 |
| Portfolio Holder: | Cllr Paul Bates – Communities and Health |

1.0 Report Summary

- 1.1 To ask Members to consider any objections following the publication of the Council's Taxi Licensing Fares.

2.0 Recommendation

- 2.1 That Members consider any objections and determine the matter as they see fit.

3.0 Reasons for Recommendations

- 3.1 A review of the fees payable in respect of various types of licence and permits administered and enforced by the Licensing Section has been made for the next financial period. For the fees to be lawful and levied correctly a review of all licensing fees and charges needs to be made followed by publication in a newspaper.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All Members

6.0 Policy Implications

- 6.1 The fees proposed are compatible with our charging strategy.

7.0 Financial Implications

- 7.1 There are no direct financial implication linked to the consideration of this report.
- 7.2 Where possible, the licensing service aims to recover all reasonable costs to ensure that the process is provided on cost neutral basis.

- 7.3 The Licensing Team complies with all of the legislative and case law requirement concerned with fees setting. These requirement as set out in full within the legal implication section of the report.

8.0 Legal Implications

- 8.1 Regulation 2 (6) of the Local Authorities (Functions and Responsibilities) Regulations 2000 confirms that where the issuing of any licence, permit, or consent is a Council function, the fee must also be set by the Council. The Council has made provision in its Constitution for the setting of fees to be delegated to the Licensing Committee.
- 8.2 The Licensing Act 2003 (along with all licences except those relating to taxis and gambling) are also subject to the EU Service (2006). This directive, which has been incorporated in UK law by the Provision of Services Regulations 2009, confirms:
1. Fee charges must be proportionate to the cost of the process
 2. Fees cannot be used as either a deterrent or to raise funds
 3. Enforcement should not be included in the fees
- 8.3 Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to charge fees for the grant of licences in respect of hackney carriage and private hire drivers, vehicles, and operators. The fees must be set for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.
- 8.4 In respect of vehicle and operators' licences the Act states that the Council may charge such fees as may be sufficient in the aggregate to cover in whole or in part:
- The reasonable cost of inspecting Hackney Carriages and Private Hire vehicles to ascertain whether any such licence should be granted or renewed.
 - The reasonable cost of providing Hackney Carriage stands
 - Any reasonable administrative or other costs in connection with the above and with the control and supervision of Hackney Carriages and Private Hire vehicles
 - The Act, which dates from 1976, also states that the fee for vehicle and operator licences shall not exceed £25 or such other sum as the Council may from time to time determine. In the light of current costs £25 is not seen as a realistic fee to impose. The fee has not been set at this rate for a significant number of years.
- 8.5 In respect of drivers' licences the Act states that the Council may charge, 'such a fee as it considers reasonable with a view to recovering the costs of issue and administration associated with the grant of Hackney Carriage and Private Hire drivers' licences'.

8.6 Additionally, there is some case law that has further developed the requirements in relation to the setting of all fees:

- The Licensing Authority cannot make a profit and must carry forward surplus - R v Manchester CC ex parte King (1991) and R (app Simply Pleasure and Ors) v Westminster CC (2012)
- Deficits can be recouped through increasing fees (this can be done at any time including mid year) - R v Tower Hamlets LBC ex parte Tower Hamlets Combined Traders Association (1994) and R (app Simply Pleasure and Ors) v Westminster CC (2012)
- Only administration and issue costs can be taken into consideration - R (app Simply Pleasure and Ors) v Westminster CC (2012)
- Compliance with a licence or conditions etc is compliance rather than enforcement - R v Associated Octel co Ltd (costs) (1996)

9.0 Risk Management

9.1 There is a right to object to most fees set following publication of the Statutory Notices. If valid objections are received the matter would be referred back to the Members of this Committee for determination. The Committee must thoroughly consider any objections received.

10.0 Background

10.1 The Authority may charge a fee for the issuing or renewal of various licences for which they have a statutory duty to issue. Certain fees are set either by Statute or Regulations but some fees can be set by Local Authorities to cover the cost of administration, compliance and some elements of enforcement; Locally Set Fees.

10.2 The service where possible aims to recover operating costs and where the Council has the discretion to set the fees, they are subject to review which can take into account operating costs, inflation, purchase costs etc.

10.3 On the 7th November 2016 the Licensing Committee determined to vary the Council's fees in relation to Taxi Licensing (appendix A). Accordingly, the Licensing Team placed the required Notices in several local papers. Notices were also placed at the Council's principal office and at the Customer Contact Centres.

10.4 Any objections received will need to be considered by the Licensing Committee and will be presented at the meeting.

10.5 In the event that there are no objections, the Committee will not be required to consider the matter and the fees will come into effect on the 1st April 2017.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report author:

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